

May 29, 2009- HB 1166/GMP 146 Ad Hoc Committee meeting Notes

Author: Allen Knapp

Facilitator: David Tiller

1. Intro participants...new members Mary Clark, Chris Beatley, Eric Seversen, Chuck Nelson (not present).
2. Discussion of members not present (Rick Blackwell, Joel Pinnix, John Schofield) who, because of requirements of FOIA, will be listening but cannot participate.
3. Mary Clark asked for brief update of past life of the committee...Dave said the primary purpose of this meeting is to look at how discharging systems fit under the ...Mary asked- how many permits issued, how many cases reviewed by the panel....Allen said perhaps as many as 200 permits issued now....2 cases heard by the review panel...
4. Reviewing the draft amendments to GMP 146- Marcia asks, item 4 on page 6 should make it clear that the appeal of a discharge permit denial goes only to the VDH construction permit, not the DEQ discharge permit. Dan- need to clarify separation distance between spring used for human consumption (add reference to Alternative Discharge Regs).....Allen asked for discussion on dry ditch questions- the way the draft is written, you could have an engineered (manmade ditch) for 499 feet and as long as the last 1 foot is on the owner's property (or easement) this would be ok....the committee talked about this at length last time and was ok with this...Marcia said that DEQ looks at this as the point for monitoring...so as long as they can do that, they have no problem....The group decided at earlier meetings that the policy would not establish any minimum length requirements for the intermittent stream/dry ditch designs...is there a separation between discharge points (Mary)? Yes....500' or 250'is everyone still ok with that? Yes. Is there a definition of a "natural channel"? No...there are criteria and definitions for intermittent streams, but that term is not defined....the group thinks we can live with the term without trying to further define it.....question about effluent limits- the GP is 30/30, anything lower is VDH...Item 6C- public and private water supplies- not clear as written...makes it sound like you can reduce the separation to a public well....not the intent, it should say something like - "all public water supplies...and a private water supply located on adjacent properties"...general discussion about the Code section and setbacks from wells...Mary Clark asking, why not have a setback for all wells....what about the future owner of a property that has insufficient setback between sewage system and well? Some localities require the permits to be recorded (Kevin)...Allen- remember that starting July 1, 2009, all alternative systems will require notice to be recorded in the land records regarding O&M requirements (Correction- the new law does not require recording for alternative discharging systems)...the policy currently requires engineer to justify that the design does not result in risk to public health greater than a system under the regs...discussion from visitors about maintenance of disinfection equipment- who maintains and inspects? VDH does annual inspections, maintenance agreements are required by VDH regulations...Should the policy make a statement about protecting ground water? The onsite regs already have this component built in...but the alternative

discharge regs really don't...the performance requirements under the discharge regs are directed only at the effluent quality....what if we put in a statement under Item 5 for performance requirements that mentions protection of groundwater? What if we don't? If an engineer designs a system that follows every element of VDH policy (and the policy doesn't say anything about groundwater) then what? The policy doesn't give a license to pollute....engineers still have an obligation to the public...Ray- thinks we should not add ground water language...Chris suggests we add the setback distance for all wells...Mary- the setbacks should apply to all water supplies...Ray- local health departments have to review these and the engineer has to justify the design...if the engineer does something that isn't justified, the local health department will turn it down....Discussion of repair permits- you can repair a system that has failed when there is a well too close....Allen- but not all situations are amenable to the repair clause- there are situations with existing housing and wells where there is no indoor plumbing, or there are pit privies, etc...the policy as written allows flexibility for engineers to design systems to improve quality of life situations...Chris and Mary are asking to remove the language "on adjacent properties" from item 6 on page 4....Allen suggested we not include a groundwater component as part of performance for discharge systems....Dave pointed out that we will be talking about groundwater in the context of the new laws, so we will be returning to the groundwater discussion later.....the group agreed with this.....the existing policy mentions "onsite" systems everywhere...do we need to revise it to include discharge systems....Allen said we probably don't need to change the wording since the preamble to the addendum says that it is to be used in conjunction with the existing policy.....Final question- is the group comfortable with moving forward with the addendum, with the changes discussed? Yes.

5. Is the group ok with looking at the elements of HB 2148? Yes...."and be appropriate for the particular soil characteristics of the site." What does this statement mean? Eric- there is a lot of leeway here...what is "appropriate?" The regulations define appropriateness...but since this goes outside the regulations, I don't know who is going to be making this call...Discussion- if it's denied, it will go to the review panel, but up front will be the engineer (first) and local health department (upon review)...Roger- the regs may be appropriate for septic effluent, but they haven't caught up with secondary effluent....Marcia- we can't ignore site conditions...Dan- when does this get looked at? For sure when a system fails....John A- we have already established some degrees of treatment that are go with implementation of this law...we are already looking at separation distances, treatment levels, etc....not waiting for failure. The review panel has looked at some of these. Marcia- in one case, the panel asked for additional information on soils....Joel- should an engineer consider the soils as part of the design? Yes. Allen- do we need to change anything about the policy as a result of this law? Mary- yes...soils not part of engineers normal schooling or testing...Allen- DPOR engineering board has looked at this issue in response to a complaint raised by some folks in the CPSS community- the board concluded that it is acceptable for engineers to do soil evaluation as long as they are competent to do so....and DPOR would be the judge of that competency...Allen explained

basis for policy- the language of the statute- Notwithstanding other provisions....puts this out of the realm of the AOSE rules and puts it squarely with DPOR....having determined that, we all agreed we needed some basic information about the site and we needed a common language for that report....Mary suggested we include a statement the PE is encouraged to get soil report from an AOSE....group did not like the idea of encouraging something...keep it black and white....second suggestion was Item 7 should say – site characterization report from a qualified professional...Discussion- if an engineer does this, and is not qualified, he or she will have to answer for that....Joel- this statute actually broadened the options for PEs...before this they could only go to an AOSE, and now they at least have the option to go to a CPSS...Mary- background as a regulator....soils training not part of the normal curriculum for an engineer...Joel- this doesn't happen in a vacuum. Local health departments are looking at these....Chris- everyone seems to agree that the evaluations need to be done by a person who is certified in soils...so why aren't we making that change in the policy? Group- we think our hands are tied by the statute...Marcia- should we include a statement in the intro paragraph to the policy (paragraph 1, page 1) that refers to the new language regarding soil characteristics of the site...Group consensus on that point. Discussion, consensus on the following: Allen? Dave will rewrite the last par. On page 3. in the discussion about requirements for site and soil evaluations, strike all the discussion about engineers and instead talk about the fact that onsite systems cannot be designed in a vacuum, need accurate reports, evaluator (whoever that is) has responsibility to do that accurately, need common language, etc.....Then write a new par. That talks about engineers- mention DPOR's review of the question, etc....strike the reference to AOSE, CPSS, etc...no need to say that now....

6. Next meeting dates- 1:00 on the 15th. Keep the room for the 26th 9-12.
7. Should we go ahead and do the changes and publish them for discharge systems, or wait until we are finished with all the changes? Group- let's wait.